

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE

SAMUEL WHITSON, )  
                        )  
Plaintiff,           )  
                        )  
v.                     )       No. 3:05-CV-274  
                        )  
KNOX COUNTY BOARD OF EDUCATION, et al., )       (Phillips)  
                        )  
Defendants.          )

ORDER

This matter came before the court for a final pretrial conference on June 2, 2008. After hearing the arguments and representations of counsel, the following actions were taken:

1.       The motion to reconsider plaintiffs' motion for a bench trial [Doc. 162] is **DENIED**. This matter will be tried to a jury.
2.       Plaintiffs' motion for expedited treatment of pending motions [Doc. 200] is **DENIED AS MOOT**.
3.       Defendants' motion to adopt by reference all prior responses filed in compliance with the court's scheduling order [Doc. 201] is **GRANTED**.
4.       Defendants' motion to dismiss or for summary judgment [Doc. 210] is **DENIED**. The court finds (1) the motion untimely, and (2) without merit as L.W. is the real party of interest in this case, thus, the bankruptcy of his parents is irrelevant to the issues.

Accordingly, plaintiffs' motion in limine [Doc. 227] to exclude the bankruptcy documents of Tina and Samuel Whitson is **GRANTED**.

5. Plaintiffs' objection to the magistrate judge's order granting Ericka Mellon's motion to quash and for a protective order [Doc. 193] is **GRANTED IN PART**: the court finds that Ms. Mellon's newspaper article may be used for cross-examination of witnesses at trial. In all other respects, plaintiff's objections are **OVERRULED**.

6. Plaintiffs' objection to the magistrate judge's order excluding the May 15, 2005 newspaper article and the May 13, 2005 WATE-TV website news article [Doc. 165] is **GRANTED IN PART**: the court finds that the news articles may be used for cross-examination of witnesses at trial. In all other respects, plaintiffs' objections are **OVERRULED**.

7. Plaintiff Samuel Whitson's motion to withdraw as representative plaintiff for L.W. [Doc. 225] is **DENIED**.

8. Plaintiffs' objection to the magistrate judge's order granting defendants' motion in limine regarding the WATE-TV newscasts [Doc. 228] is **OVERRULED**: only the videotaped statements by Cathy Summa and Russ Oakes are admissible at trial. The remaining portions of the newscasts are inadmissible.

9. Plaintiffs' objection to the magistrate judge's order denying their motion to have requests to admissions deemed admitted [Doc. 228] is **OVERRULED**.

10. Defendants orally requested court annexed mediation prior to the trial of this case. The plaintiffs agree that mediation may resolve the remaining issues between the parties. The court finds that mediation may facilitate a possible resolution in this case. Pursuant to LR 16.4, it is hereby **ORDERED** that the parties in this case enter into

mediation. The parties shall notify the court within **thirty (30) days** from the date of this order the identity of the mediator who will conduct the mediation and of the date, time and place for the mediation. It is **FURTHER ORDERED** that the parties, their representatives and/or actual decisionmakers for the parties, including persons with actual settlement authority on behalf of all the parties to this litigation, shall be present for the mediation, which should be scheduled to occur within the next **sixty (60) days**. The parties shall promptly notify the court of the results of the mediation.

11. In light of the parties' request to enter mediation, the trial scheduled for June 9, 2008 is **CANCELLED**.

**IT IS SO ORDERED.**

**ENTER:**

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s/ Thomas W. Phillips  
United States District Judge